IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12516 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VINODCHANDRA M GLASSWALA

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 12516 of 2003

MS SONAL D VYAS for Petitioner No. 1

MR NK MAJMUDAR for Respondent No. 1

Mr. MR Mengde, AGP for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 25/11/2004

ORAL JUDGEMENT

Rule. Mr. NK Majmudar, learned advocate waives service of Rule on behalf of respondent No.1 and Shri MR Mengde, ld. AGP on behalf of respondents No. 2 and 3.

2. In this petition under Article 226 of the Constitution of India the petitioner has challenged the notice and supplementary bill dated 17th May 2003. It is the contention on behalf of the petitioner that the petitioner has disputed the supplementary bill and also made a complaint before the Electrical Inspector, respondent No.2 herein under Section 26 of the Indian Electricity Act, 1910, and therefore unless and until the complaint is decided the respondent cannot issue the supplementary bill and issue notice for recovery of the same. The petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of Madhya Pradesh Electricity Board and Others Vs. Smt. Basantibai, reported in 1998(1) SCC Page 23. Mr. Majmudar has submitted that the reference is pending before the respondent No.2 and there is no decision taken by the Electrical Inspector, respondent No.2 herein. He has also further submitted that whatever the particulars which are required to be furnished by the Electrical Inspector pursuant to the communication dated 24th July 2003 are supplied to the Electrical Inspector and if not supplied then the same will be supplied within a period of one week from today. Shri Mengde, learned AGP has submitted that an appropriate direction be issued directing the respondent No.2 to take appropriate decision on the complaint submitted by the petitioner.

3. Considering the facts and circumstances of the case, the respondent No.2 is directed to take final decision on the Reference/Complaint filed by the petitioner on 5th July 2003 as early as possible preferably within a period of four weeks from today and communicate the outcome to the concerned parties. The respondent No.1 is directed to give fullest cooperation to the respondent No.2 and supply all the necessary particulars as required by the respondent No.2 as early as possible. Until the complaint submitted by the petitioner before the respondent No.2 is decided and appropriate decision is taken, the respondent No.1 shall not insist for payment of the supplementary bill as per the demand dated 17.5.2003. On receipt of the decision by the Electrical Inspector, it will be open for the respondent No.2 to proceed further in accordance with law. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R. Shah, J.]

rmr.